

REMARKS

1. Claims 20 and 21 are pending in the application. Claim 21 has been amended. Claims 20 and 21 remain in the application.

It is believed that no new matter has been added by these amendments. Support for these amendments can be found in the specification, claims and drawings of the application as originally filed.

2. The Official Action requested that the previously submitted revised Abstract "be supplied on a piece of paper which contains no text other than the abstract." In addition to resubmitting the revised Abstract above, attached hereto is a page with the abstract language in compliance with the Examiner's request.

It is believed that no new matter has been added by these amendments. Support for these amendments can be found in the specification, claims and drawings of the application as originally filed.

3. The Official Action objected to claim 21. Although it is not stated in the Office Action, it can be deduced from the remainder of the Office Action that this claim was objected to because it is dependent upon a rejected claim and that otherwise it contains an allowable invention.

Claim 21 has been amended to be independent, no longer dependent upon claim 20 but incorporating the necessary antecedent language/formula from claim 20.

Therefore, in view of the above remarks and amendments, it is believed that claims 20 and 21 are in condition for allowance and Applicant respectfully requests reconsideration of the application, withdrawal of all objections and rejections and that claims 20 and 21 be allowed to issue at an early date.

4. The Official Action rejected claim 20 under 35 USC §102(b) stating that the claims are “anticipated by Klinger (USP 5,399,570).” This rejection is respectfully traversed for the following reasons.

For a rejection of claims under 35 U.S.C. §102 to be proper, each and every element of the claimed invention must be described in the exact same way and function in the exact same way as disclosed in the cited reference. There are significant differences between the present invention and the cited “compound” in Klinger, et al.

The Examiner cites a compound from Example 9 in Klinger and states that this compound would anticipate the present invention where G' is a “substituted aralkyl”. To support this proposition, substituent G' would have to be 2,2-diphenylethyl; this however, does not correspond with the common definition of a “substituted aralkyl”. For example, Merck Source defines an aralkyl as “an organic group in which an aryl group has replaced an alkyl hydrogen”¹ which does not encompass the 2,2-diphenylethyl from the Official Action.

The disclosure of the present invention is consistent with this common definition. Also, consistent with its use in the art (and the language of the specification and claims) the term “substituted” refers to a substitution on an aromatic ring or cyclic alkyl – not to the substitution of an aromatic ring or cyclic alkyl on an alkyl chain. There is nothing in the Klinger patent which would lead anyone to interpret the term “substituted aralkyl” to encompass the di-phenyl ethyl group proposed in the Official Action. Therefore a “substituted aralkyl” could not be read to encompass a diphenyl alkyl.

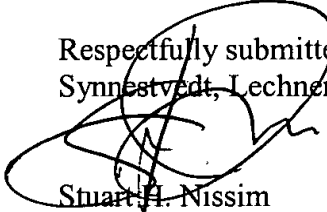
Furthermore, the alleged anticipatory compound is in not a compound invented or claimed or disclosed in the specification. It is simply one starting compound mentioned in only one of the 16 examples. No source or synthesis is provided. In the absence of a source or synthesis for the compound, the fact that it is presented using confusing and incorrect naming/designation; the fact that it is presented as a reactant in a chemical synthesis of a totally distinct compound through the combination with another reactant; and the fact that the combination would occur at the location which can therefore be

¹ [Emphasis added] www.mercksource.com (Full Link: http://www.mercksource.com/pp/us/cns/cns_hl_dorlands.jspzQzpgzEzzSzppdocszSzuszSzcommonzSzdorlandzSzdorlandzSzmd_a_56zPzhtm)

reasonably interpreted as a reactive hydrazine, all support Applicants' position that the Klinger patent is not anticipatory.

Therefore, in view of the above remarks and amendments, it is believed that claims 20 and 21 are in condition for allowance and Applicant respectfully requests reconsideration of the application, withdrawal of all objections and rejections and that claims 20 and 21 be allowed to issue at an early date.

Respectfully submitted,
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